

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

REMUS SMITH,

Petitioner,

vs.

9:03-CV-1178

**CALVIN WEST,
Superintendent of Elmira Correctional Facility,**

Respondent.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

This *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was referred to the Hon. Gustave J. DiBianco, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.4.

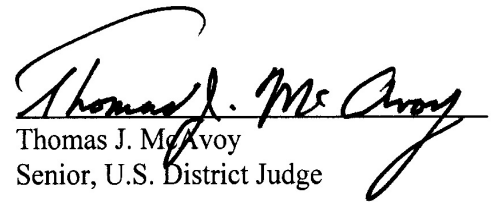
No objections to the Report-Recommendation dated August 13, 2008 have been filed. Furthermore, after examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

It is therefore

ORDERED that the petition for a writ of habeas corpus is **DENIED** and
DISMISSED.

IT IS SO ORDERED

DATED: September 23, 2008


Thomas J. McAvoy
Senior, U.S. District Judge